82-1044

No. —

Office - Supreme Court, U.S.
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ALEXANDER L. STEVAS,
CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1982

UNITED STATES HOUSE OF REPRESENTATIVES, APPELLANT

v.

FEDERAL TRADE COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

JURISDICTIONAL STATEMENT

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Counsel for the House of Representatives.

Of Counsel:
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QUESTIONS PRESENTED

1. Whether Article III permits private parties to instigate a constitutional controversy between the Executive and Legislative Branches, a controversy foreign to the private parties, by the expedient of naming as defendants (a) an independent administrative agency, represented by counsel for the Executive Branch, and (b) the two Houses of Congress, neither of which has statutorily consented to such a suit and both of which were exercising legislative discretion in their challenged actions.

2. Whether consumer organizations, including members, employees and contributors, have Article III standing to challenge the constitutionality of congressional disapproval of the FTC's proposed Used Car Rule on the claim that unidentified members (a) "can be expected to buy used cars" in the indefinite future, and (b) would benefit if the Rule were then in effect.

3. Whether the legislative review procedures of Section 21(a) of the Federal Trade Commission Improvements Act of 1980 constitute a valid involvement by Congress in the quasi-legislative rulemaking delegated to the Federal Trade Commission by a duly enacted statute.

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AUTHORITIES

Cases:

Chadha v. *Immigration and Naturalization Service*, 634 F.2d 408 (9th Cir. 1980) *prob. juris. post. and cert. granted*, 454 U.S. 812 (1982) *restored to calendar for reargument*, 102 S.Ct. 3507 (1982)	8
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U.S. Const., art. III ---------- *passim*
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15 U.C.S. § 57a-1(f)(1) ---------- *passim*
28 U.S.C. § 1252 ---------- 2
Congressional Materials:
126 Cong. Rec. S1090 (daily ed., Feb. 9, 1980) ---------- 5
H. Conf. Rep. No. 917, 96th Cong., 2d Sess. 38 (1980) *reprinted in* [1980] U.S. Code Cong. & Ad. News 1155 ---------- 3, 4
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In the Supreme Court of the United States

OCTOBER TERM, 1982

No. ——

UNITED STATES HOUSE OF REPRESENTATIVES, APPELLANT

v.

FEDERAL TRADE COMMISSION, ET AL.[1]

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

JURISDICTIONAL STATEMENT

OPINIONS BELOW

The opinion of the court of appeals is not yet reported.[2] The order of the district court certifying the constitutional question to the court of appeals (Senate App. 7a–8a) is reported in 1982–2 Trade Cas.

[1] The parties to the proceeding in the court of appeals were Consumers Union of U.S., Inc. and Public Citizens, Inc., the plaintiffs in this case, and the Federal Trade Commission, the United States House of Representatives, and the United States Senate, named in the complaint as defendants.

[2] The opinion of the court of appeals is reprinted in the appendix to the Senate Jurisdiction Statement, as is the district court memorandum denying the motion of the Senate and House of Representatives for relief from the certification order and we have not reproduced them here to avoid duplication. Citation to these decisions will be to the Senate Appendix.

(CCH) ¶ 64,817. The memorandum order of the district court denying the motion of the United States Senate and House of Representatives for relief from the certification order (Senate App. 13a–20a) is reported in 1982–2 Trade Cas. (CCH) ¶ 64,865.

JURISDICTION

The judgment of the court of appeals (Senate App. 21a–22a) was entered on October 22, 1982. Section 21(f)(2) of the Federal Trade Commission Improvements Act of 1980, 15 U.S.C. § 57a–1(f)(2) (Supp. IV 1980), provides that an "appeal shall be brought not later than 20 days after the decision of the court of appeals." In accordance with that requirement, timely notices of appeal were filed by the United States House of Representatives and the Senate on November 4, 1982.[3] Senate App. 23a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1252 and Section 21(f)(2) of the Federal Trade Commission Improvements Act of 1980.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 21 of the Federal Trade Commission Improvements Act of 1980, 15 U.S.C. § 57a–1 (Supp. IV 1980), and other relevant portions of the Federal Trade Commission Act, are set forth at Senate App. 26a–33a.

STATEMENT

The House of Representatives need not repeat here the legislative background of the provisions

[3] The notice of appeal of the House of Representatives is reprinted in the appendix hereto, App. 1a.

in dispute in this appeal—the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, Pub.L.No. 93–637, 88 Stat. 2183 (1974), specifically the legislative review provisions of the Act permitting congressional disapproval of the Federal Trade Commission proposed rules under the Act, and the House relies on the Senate's presentation of the relevant legislative background to the adoption of the legislative review provisions. *See* Senate Jurisdictional Statement at 2–6.

Because the House believes that this case also raises serious questions under the Article III "case or controversy" requirement, the House states the following additional facts:

1. Section 21(f), the provision under which the action was filed in the district court, provides:

> *Any interested party may institute such actions* in the appropriate district court of the United States, including actions for declaratory relief, *as may be appropriate* to construe the constitutionality of any provision of this section. (emphasis added).

15 U.S.C. § 57a–1(f)(1).

The statute does not further define the term "interested party," but the legislative history contains a single sentence discussion of the term. "Such actions may be initiated by an interested party, which would include all persons who participated in the particular rulemaking that is the subject of the suit." H.Conf.Rep.No. 917, 96th Cong., 2d Sess. 38 (1980) *reprinted in* [1980] U.S. Code Cong. & Ad. News 1155. There is no definition or discussion whatever

in the legislative history of what constitutes "such actions . . . as may be appropriate" that the interested party may institute in the district court.

2. The main thrust of Section 21(f) is toward certification of constitutional questions and expedited appellate consideration thereof. It provides that, after the interested party has filed an appropriate action in the district court, that court

> . . . immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

15 U.S.C. § 57a–1(f)(1).

The appellate court's decision on such certified matters is then made reviewable by appeal directly to this Court. Such appeal must be brought not later than 20 days after the decision of the court of appeals. 15 U.S.C. § 57a–1(f)(2). Nothing in these certification and appeal provisions purports to define or expand the "appropriate" action in the district court that triggers these provisions.

3. The legislative history of these provisions also reveals that Congress desired to provide a procedural means for resolving disputes over the constitutionality of the legislative review provisions of the Act, but said nothing about sweeping away Article III prerequisites of standing and adverseness. "The conferees are *hopeful* that these procedures will result in a definitive Supreme Court decision on the question of constitutionality." (emphasis added) H.Conf.Rep. No. 117, *supra* at 38. At the time the section was

inserted, no case involving the legislative review mechanism had yet reached the Supreme Court. *See* 126 Cong. Rec. S1090 (daily ed., Feb. 9, 1980) ("Before many more laws are constructed which delegate authority to the executive branch agencies and which rely on this reservation of authority by the Congress, it is important to have a definitive resolution of the constitutionality of this procedure. . . . [I]t may be some time before another case is properly framed around this question.") (remarks of Senator Muskie).

4. The House of Representatives did not file in the district court an answer to the complaint, nor did it have an opportunity to contest its being named as a party defendant. Nor did the House have opportunity to protest the alignment of the plaintiffs and the Federal Trade Commission on the same side of the suit, and the effect of such a friendly suit on justiciability of this action. All this stemmed from the premature *ex parte* certification of the constitutional questions by the district court to the court of appeals. Senate Jurisdictional Statement at 4–5, and Senate App. 17a.

5. The House of Representatives, in jointly moving with the Senate for relief from the ex parte order of certification, sought to add a second question concerning whether the case presented a justiciable case or controversy. The district court denied the motion and stated: "That issue goes to the jurisdiction of the Court to entertain the case and a court may always question its jurisdiction. Jurisdiction is an issue presented in every case brought in a federal court." Senate App. 18a. The district court further concluded

that the question which the House posed concerning justiciability need not be certified under the Act "since that question does not address the constitutionality of the statute itself." Senate App. 19a.

6. The plaintiffs' complaint in this case states that, in the case of Consumers Union of U.S., "[i]t participated in the FTC's Used Car Rule Proceedings," Complaint ¶ 3, and that . . . "the Rule would benefit CU Members, who have bought and who can be expected to buy used cars from dealers . . ." *Id.*, appendix hereto, App. 4a, and in the case of Public Citizen, Inc., that it is a non-profit organization . . . [which] engages in a wide variety of activities with a particular focus on protecting and augmenting the rights of consumers." Complaint ¶ 4. appendix hereto, App. 5a. Public Citizen further alleged that the proposed rule "would have benefited Public Citizen's supporters and its nearly 50 employees, many of whom can be expected to purchase used cars in the future . . ." *Id.*[4]

[4] It is clear that "an organization whose members are injured may represent those members in a proceeding for judicial review." *Sierra Club* v. *Morton*, 405 U.S. 727, 739 (1972). But absent any injured members, an organization that has a mere "interest in a problem" has no Article III injury. *Id.* The two plaintiff organizations in this case appear to fall within the latter category. No member has been shown to have been injured in fact. Indeed, the members, employees and contributors said to compose these organizations have not been shown to play any "part in the operation or administration" of the organizations, or to elect any officials, or to attend any membership meetings. *See FEC* v. *National Right to Work Committee*, No. 81-1506, slip opinion, p. 9 (Dec. 13, 1982). Even if a "member" could be said to have been "injured" in this case, it seems that neither organization has demonstrated its standing to represent that "member."

On the threshold questions of standing and lack of adverseness argued by the House, the court of appeals ruled first that plaintiffs had standing because through the "interested party" language the Congress intended to confer "standing to seek judicial review to the full extent permissible by Article III," and that both organizations satisfied the standing requirement because "the FTC's used car rule would have secured significant assistance and protection for the used car buyers they represent." *Id.* The court of appeals explained in a footnote that plaintiffs had sustained "injury in fact" which was traceable to the action of the House and Senate defendants which could be redressed by favorable decision: "Members of the two consumer organizations are handicapped in their efforts to make informed used car purchases by the lack of a disclosure rule. Congress' veto, and the FTC's decision to abide by it, prevented the used car rule from taking effect. Finally, this court's decision, that the veto was unconstitutional, will clear the way for the rule to become effective." Senate App. 3a, n. 9.

On the issue of adverseness, the court of appeals concluded that naming the legislative bodies *eo nomine,* who "vigorously aired their position on the constitutionality of the congressional veto," Senate App. 3a, invested the suit with sufficient Article III adverseness. The court of appeals stated in this connection that neither House had sought dismissal.[5]

[5] Given the *ex parte* nature of the certification the case was "in" the court of appeals before any motion to dismiss could be filed in district court.

The court of appeals also cited the resolution authorizing the Senate Legal Counsel to represent the Senate in the ensuing litigation and the enactment of the statutory procedures themselves under the Act as evidence of an "exceptional situation" which "supplied the requisite adverseness . . . [and which] effectively invited our expeditious resolution of the constitutional questions at issue." Senate App. 4a.

The court's complete discussion of the merits consisted of a brief preamble stating the constitutional questions presented and three numbered paragraphs summarily answering those questions in the affirmative. All three answers were prefaced by the phrase: "For the reasons given in *Consumers Energy Counsel* [v. *FERC*]." Senate App. 4a–5a.

THE QUESTIONS ARE SUBSTANTIAL

A. THE ADVERSENESS QUESTIONS

The House of Representatives submits that this case presents the most serious and far-reaching questions of justiciability yet posed in any of the cases involving legislative review mechanisms. *Chadha* v. *Immigration and Naturalization Service*, 634 F.2d 408 (9th Cir. 1980) *prob. juris. post. and cert. granted* 454 U.S. 812 (1982) *restored to calendar for reargument*, 102 S.Ct. 3507 (1982); *Consumer Energy Council of America* v. *Federal Energy Regulatory Commission*, 673 F.2d 425 (D.C. Cir. 1982). In neither of those cases had either the House or Senate been named a party defendant in the original action; in both, the House and Senate participated as *amici*

and only intervened *after* judgment to press those very justiciability concerns inextricably enmeshed in these cases. The jurisprudential effects of naming the House and Senate as parties, and the rationale offered by the court of appeals for countenancing the alignment of plaintiffs and defendant FTC on the same side of the suit, are potentially far-reaching and unsettling. The court of appeals holding on this point portends consequences not only for the House of Representatives as a legislative body,[6] but for private and other public litigants as well.

Moreover, the adverseness analysis of the court of appeals failed to consider or address significant questions concerning the limited role of the courts in resolving inter-branch disagreements, not all of which rise to the level of justiciable "cases or controversies." *Compare United States* v. *Nixon,* 418 U.S. 683, 696 (1974) ("In the constitutional sense controversy means more than disagreement and conflict; rather it means the kind of controversy courts traditionally resolve") with *Goldwater* v. *Carter,* 444 U.S. 996, 1004 (1979) (Burger, CJ., Stewart, Rehnquist, Stevens,

[6] To the extent that the legislative bodies are now amenable to suit in challenges to the constitutionality of actions taken exclusively in the chamber, the court of appeals has worked a fundamental innovation in jurisprudence, for nothing is better settled than that a legislative body is beyond the jurisdiction of the courts as a party when exercising its legislative discretion. *McChord* v. *Louisville & N.R. Co.*, 183 U.S. 493, 495–96 (1901).

Serious problems now arise as to whether the two Houses of Congress can be sued without some express statutory consent Do they not share in the sovereign immunity of the "United States" from suit, absent consent?

JJ., concurring) ("we are asked to settle a dispute between co-equal branches of our Government, each of which has resources not available to protect and assert its interests, resources not available to private litigants outside the judicial forum"). Fashioning "cases or controversies" by institution of friendly suits between private plaintiffs and governmental agencies, forced to confess unconstitutionality upon command from the Department of Justice, also presages the spectre of countless advisory opinions on "political questions" thrust upon the courts visa such a device.

In this case, the FTC "deferred to the Department of Justice, as its counsel in this case, for the presentation of legal argument regarding the constitutionality of Section 21 [of this Act]." Brief for the Defendant Federal Trade Commission at 3 n.2. The ability of the President, through the Department of Justice, to collaterally attack statutes governing administration of so-called independent agencies also works disruption of the scheme envisioned by Congress in creating these agencies free of overweaning Presidential influence.

B. THE STANDING QUESTION

By conferring Article III standing upon the plaintiff organizations, who demonstrated nothing more than that they participated in a rule-making proceeding and some of whose members might some day purchase a used car and thus "would have benefited" from adoption of the used car rule, the decision below raises jurisprudential concerns of the highest dimen-

sion. Simply put, assuming Congress intended to expand to the Article III limits the ability of "interested parties" to file "appropriate" actions pursuant to Section 21(f)(1), can such plaintiffs satisfy the constitutional minima where they allege only future expectations of benefits had a rule of law been made effective? There is not even an averment that either organization or member thereof members purchased a used car since congressional disapproval of the used car rule. Have plaintiffs alleged anything more than a general consumer interest in the problems in the used car market? *See Sierra Club* v. *Morton,* 405 U.S. 727, 739 (1972).

Plaintiffs made no attempt, beyond the bare conclusory allegations of their complaint, to proffer any direct and palpable injury, or any concrete facts upon which a court could determine that members of plaintiffs' organization purchased a used car, much less how purchase of a car without the stickers required by the FTC's proposed rule, would injure them in a judicially cognizable manner. Satisfied that injury was supplied by the lack of "disclosures that would assist them in making informed purchasing decisions" Senate App. 3a, the court of appeals created a standing criterion which opens the door of federal courts of any plaintiff who pleads unrealized expectations and generalized disappointment in failure of a rule or government program to become effective.

What we are witnessing here is a standing phenomenon that is increasingly associated with litigation questioning the validity of the legislative disapproval device. In this case, the dominating fact is

that Congress, in Senate Concurrent Resolution 60, voted to *disapprove* the proposed FTC rule. By that "no" vote, Congress preserved the legal *status quo* respecting used car sales. And by that "no" vote, Congress made it impossible for any private individual or organization to acquire Article III standing to challenge the constitutionality of such negative action. How can one be legally injured by the refusal of Congress to permit a proposed rule of law to become effective? How can there be any judicial redress for such an "injury"?

In short, the Article III standing minima cannot be allowed to rest upon the citizens' loss of expectation of benefits that would presumably ensue has a proposal become law. That would corrupt the policies and the purposes of the Article III minima. And it would lead to a needless avalanche of federal court suits by those disappointed by legislative judgments.

C. THE CONSTITUTIONAL ISSUES

Little need be said here as to the substantiality of the questions involving the constitutionality of the legislative review procedures embodied in Section 21(a) of the Federal Trade Commission Improvements Act. This Court is well aware of the arguments posed by the parties herein.

Suffice it to say that the House of Representatives deems it critical to the preservation of the federal structure of government that recognition be given to the power of Congress to say "no" to a proposed rule of law.

CONCLUSION

For these reasons, probable jurisdiction should be noted and the judgment below vacated or reversed.

Respectfully submitted.

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STEVEN R. ROSS,
Deputy Counsel to the Clerk,
MICHAEL L. MURRAY,
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RECEIVED
NOV 4 - 1982
CLERK OF THE UNITED STATES COURT OF APPEALS

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-1737

CONSUMERS UNION OF U.S., INC.,
AND PUBLIC CITIZEN, INC.,

Plaintiffs,

v.

FEDERAL TRADE COMMISSION, UNITED STATES SENATE,
AND UNITED STATES HOUSE OF REPRESENTATIVES,

Defendants.

NOTICE OF APPEAL TO THE
SUPREME COURT OF THE UNITED STATES

Notice is hereby given that the United States House of Representatives hereby appeals to the Supreme Court of the United States from the judgment entered in this case on October 22, 1982, holding unconstitutional section 21(a) of the Federal Trade Commission Improvements Act of 1980, 15 U.S.C. §57a-1(a) (Supp. IV), and Senate Concurrent Resolution 60 of the 97th Congress.

This appeal is taken pursuant to 28 U.S.C. §1252 (1976) and 15 U.S.C. §57a-1(f)(2)(Supp. IV 1980).

Respectfully submitted,

Stanley M. Brand

Stanley M. Brand
General Counsel to the Clerk
U.S. House of Representatives
H-105 The Capitol
Washington, D.C. 20515
202-225-7000

Dated: November 4, 1982

SUMMONS IN A CIVIL ACTION

CIV. 1a (2-64)
(Formerly D.C. Form No. 45a Rev. (6-49))

United States District Court

FOR THE
District of Columbia

PENN, J.

82- 1512

CIVIL ACTION FILE NO. _____

Consumers Union of U.S., Inc.
and
Public Citizen, Inc.

Plaintiff

v.

United States Senate
and
United States House of Representatives
and
Federal Trade Commission

Defendant

SUMMONS

To the above named Defendant : United States House of Representatives

You are hereby summoned and required to serve upon Ellen Broadman

plaintiff's attorney , whose address 1511 K Street, N.W.
Suite 1033
Washington, D.C. 20005

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JAMES F. DAVEY
Clerk of Court.

Deputy Clerk.

Date: JUN 2 1982

(Seal of Court)

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CONSUMERS UNION OF U.S., INC.,
1511 K Street, N.W., Suite 1033
Washington, D.C. 20005
(202) 783-6130

and

PUBLIC CITIZEN, INC.,
2000 P Street, N.W.
Washington, D.C. 20036
(202) 293-9142

Plaintiffs,

v.

FEDERAL TRADE COMMISSION
Pennsylvania Avenue at 6th St, NW
Washington, D.C. 20580

UNITED STATES SENATE
United States Capitol
Washington, D.C. 20510

and

UNITED STATES HOUSE OF REPRESENTATIVES
United States Capitol
Washington, D.C. 20515

Defendants.

PENN, J.

82- 1512

Civil Action No.

COMPLAINT FOR DECLARATORY JUDGMENT

I

INTRODUCTION

1. Consumers Union of U.S., Inc., and Public Citizen, Inc. bring this action seeking a declaratory judgment that the

congressional veto of the Used Car Rule and the congressional veto provisions of the Federal Trade Commission Improvements Act of 1980 are invalid under the United States Constitution. Plaintiffs further seek a declaration that the defendent Federal Trade Commission ("FTC" or "Commission") is obligated to make effective and implement its Used Car Rule.

II

JURISDICTION

2. The jurisdiction of this Court is invoked under 15 U.S.C. Section 57a-1(f)(1) and 28 U.S.C. Section 1331.

III

PLAINTIFFS

3. Plaintiff Consumers Union of U.S., Inc. ("Consumers Union" or "CU"), is a nonprofit membership corporation chartered in 1936 and existing under the laws of the State of New York to provide information, education, and counsel about consumer goods and services and the management of the family income. It publishes Consumer Reports, a magazine with a circulation of approximately 3 million, which regularly carries articles on automobiles to assist CU members in purchasing used and new cars. Consumers Union represents the interests of its approximately 400,000 members in federal rulemaking proceedings and in litigation before the courts. It participated in the FTC's Used Car Rule proceedings and urged the Commission to adopt an earlier proposed version of the Rule with minor amendments. The Rule would benefit CU members, who have bought

and who can be expected to buy used cars from dealers, by requiring dealers to disclose known mechanical defects and dealer warranties. Consumers Union's members are and will be adversely affected by the Congressional veto and the Commission's failure to make effective and implement the Rule.

4. Public Citizen, Inc. is a non-profit organization supported by the contributions of approximately 40,000 individuals each year. It engages in a wide variety of activities with a particular focus on protecting and augmenting the rights of consumers. The FTC's Used Car Rule which was vetoed would have benefited Public Citizen's supporters and its nearly 50 employees, many of whom can be expected to purchase used cars in the future, by requiring dealers to disclose known mechanical defects and dealer warranties.

IV

DEFENDANTS

5. Defendant Federal Trade Commission is an agency of the United States. It issued the Used Car Rule which is the subject of this action, but has failed to make the Rule effective because of the congressional veto of the Rule.

6. Defendant United States Senate is named as a party under Fed. R. Civ. P., Rule 19 because it has an interest relating to the subject of the action because it voted to veto the Used Car Rule and is so situated that the disposition of this action in its absence may impair or impede its ability to protect that interest.

7. Defendant United States House of Representatives is named as a party under Fed. R. Civ. P., Rule 19 because it has an interest relating to the subject of the action because it voted to veto the Used Car Rule and is so situated that the disposition of this action in its absence may impair or impede its ability to protect that interest.

V

FACTUAL BACKGROUND OF THIS ACTION

8. On August 3, 1981, pursuant to its authorities under Section 18 of the Federal Trade Commission Act, 15 U.S.C. Section 57a, and Section 109(b) of the Magnuson-Moss Warranty Act, 15 U.S.C. Section 2309(b), the FTC promulgated a trade regulation rule concerning the sale of used motor vehicles (the "Used Car Rule"). The Used Car Rule requires dealers to post a window sticker on used cars offered for sale to consumers which is required to describe certain major mechanical defects known to the dealer and the dealer's warranties. 46 Fed. Reg. 41330 (Aug. 14, 1981). The Rule addresses two major problems the FTC found in the used car market: (a) widespread oral misrepresentations by dealers about warranty coverage and (b) widespread oral misrepresentations and omissions of material facts by dealers about used cars' mechanical conditions.

9. On May 18, 1982, and May 26, 1982, in accordance with Section 21(a) of the Federal Trade Commission Improvements Act, 15 U.S.C. Section 57a-1(a), the Senate and the House respectively approved Senate Concurrent Resolution 60, which vetoed the Used Car Rule.

10. Concurrent Resolution 60 and Section 21(a) of the Federal Trade Commission Improvements Act, 15 U.S.C. Section 57a-1, which authorized Concurrent Resolution 60, violate the Constitution because they (a) violate the principles of separation of powers by depriving the Executive Branch of its powers and functions under Article II to faithfully administer the laws of the United States, and by infringing upon the powers and functions of the Judiciary under Article III to interpret the Constitution and laws of the United States and to adjudicate rights under those laws; (b) nullify procedures established by Article I for the enactment of laws of the United States, including the presentment of approved legislation to the President and the Presidential power to return that legislation to Congress, and (c) improperly delegate administrative power to Congress without any standards for the exercise of that power.

XIII

RELIEF

WHEREFORE plaintiff prays:

A. That this Court immediately enter an order, pursuant to Section 21(f)(1) of the Act, 15 U.S.C. Section 57a-1(f)(1), certifying the question of the constitutionality of Section 21(a) to the United States Court of Appeals for the District of Columbia Circuit;

B. That this Court and the Court of Appeals advance on the docket and expedite this action to the greatest extent possible, as provided in 15 U.S.C. Section 57a-1(f)(3);

C. That the Court of Appeals enter a judgment declaring that Section 21(a) of the Federal Trade Commission Improvements Act of 1980, 15 U.S.C. Section 57a-1(a) and the congressional veto of the Used Car Rule (Senate Concurrent Resolution 60) are unconstitutional and hence null and void;

D. That the States Court of Appeals enter a judgment declaring that the Commission is obligated to make effective and implement the Used Car Rule;

E. That plaintiffs be awarded their costs and disbursements of this litigation, including reasonable attorney's fees, and

F. That plaintiffs be granted such other and further relief as the Court deems just and proper.

Respectfully submitted,

Ellen Broadman

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Attorneys for Plaintiffs

Dated: June 2, 1982